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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,950	09/29/2003	Peter J. Balsells	2967	3808

7590 08/23/2004

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NEWPORT BEACH, CA 92660-0755

EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/673,950

Applicant(s)

BALSELLS, PETER J.

Examiner

Christopher P. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

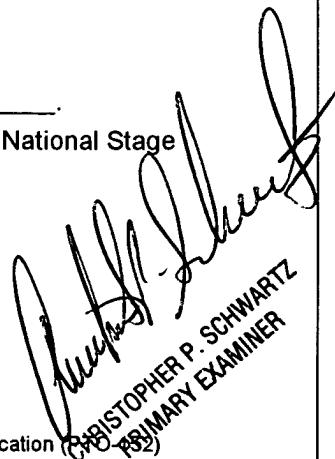
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-452)
- 6) ☐ Other: \_\_\_\_.

  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement has been received and considered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13,14,17,18,35,36,39,40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear from the specification what applicants mean by "concave" and "convex" turn angles. The terms "convex" and "concave" are somewhat confusing and do not seem to accurately define the feature to be described.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7,9-12,20-22,25-29,31-34,42-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Balsells '638.

Regarding claim 1 Balsells '638 shows a previous design of applicant's in the several embodiments (figures 19,25,29,36,38) a spring having primary and secondary coils (188,196) with differentiated dimensional sizes to provide variable force and deflection characteristics, as broadly claimed. See the discussion in column 10 in its entirety. Also note that the angles shown in figures 4 and 5 are exemplary only and are not limited to those shown. See the discussion at the bottom of column 8 and the top of column 9.

Regarding claims 2-7,12 from the discussion in col. 2 lines 49-52 and as can be seen from the several embodiments, and as broadly claimed, these requirements are met by '638. Note that the interpretation of the "primary" and "secondary" coils, with respect to at least several of the claims, may be reversed.

Regarding claims 9,20-22 see the discussion in col 2 lines 49-52 and 61-63. See also the discussion with regard to figure 103.

Regarding claims 10,11 see the embodiments shown in figures 92,93 and the discussion at the top of column 9.

Regarding claim 25 see the embodiment of figures 38,39.

Regarding claims 26-29,31-34,42-44 as discussed above, these requirements are met.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8,30 rejected under 35 U.S.C. 103(a) as being unpatentable over Balsells '638 in view of Balsells '788.

Regarding claims 8,30 to have made the primary and secondary coils of '638 from different gauge wire would have been obvious to the ordinary skilled worker in the art at the time of the invention dependent upon the spring characteristics desired, as is notoriously well known in the art. See Balsells '788 column 9 lines 42-50.

Claims 13,14,17,18,35,36,39,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balsells '638 in view of Balsells '276.

Regarding claims 13,14,17,18,35,36,39,40 subject to the 112 above, one having ordinary skill in the art would have found it obvious to have canted the primary and secondary coils of '638 with claimed turned angles dependent upon the particular application of the garter spring or desired load vs. deflection characteristics, as taught by '276 in figures 9 and 10.

8. Claims 15,16,19,24,37,38,41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balsells '638.

Regarding claims 15,37 being that '638 states that various combinations of the shapes of the springs and angles thereof may vary to accommodate axial and/or radial loading (col 3 lines 3,4 and 9-17) one having ordinary skill in the art at the time of the invention would have found it obvious to have oriented the primary and secondary coils of '638 to the claimed orientation to accommodate a specific application (i.e. load vs. deflection) intended for the spring.

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Regarding claims 16,38 these requirements are met.

Regarding claims 19,24,41 such a cross section for one of the coils would simply amount to an obvious alternate equivalent cross section to that discussed by '638 in col 2 lines 49-52 and 61-63 dependent upon a particular application for the spring.

9. Claims 23,45 rejected under 35 U.S.C. 103(a) as being unpatentable over '638 in view of MacLeod.

Regarding claims 23,45 simply to have used a spring with coils having "flat sides", as taught by MacLeod, would have been obvious dependent upon the application for the spring.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

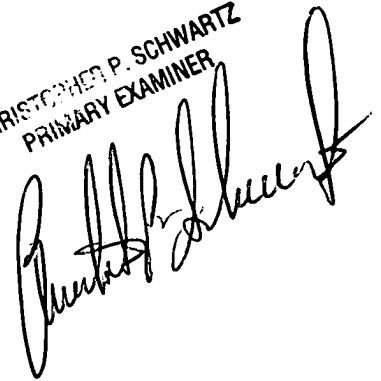
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps  
8/18/04

CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Christopher P. Schwartz", is written over the printed name and title of the Primary Examiner.